

CHAPTER 204\*  
SUBSIDIZED GUARDIANSHIP PROGRAM

PREAMBLE

This chapter implements a subsidized guardianship program to provide financial assistance to guardians of eligible children who are not able to be adopted and who are not able to return home. This program will allow children a more permanent placement than they have in foster care.

**441—204.1(234) Definitions.**

“*Child*” means a person who has not attained the age of 18.

“*Department*” means the Iowa department of human services.

“*Guardianship subsidy*” means a monthly payment to assist in covering the cost of room, board, clothing, and spending money for the child.

**441—204.2(234) Eligibility.**

**204.2(1) General conditions of eligibility.** The guardian named in a permanency order under Iowa Code section 232.104(2)“d”(1) for a child who was previously in the custody of the department is eligible for subsidy when all of the following conditions exist:

a. The department has determined the option of reunification has been eliminated and termination of parental rights is not appropriate.

b. The child is in foster care subsidized by the department at the time of application and has lived in foster care for at least 12 months of the last 18 months.

c. The child is either 14 years of age or older or, if under 14 years of age, is part of a sibling group with a child aged 14 or older and cannot be made available for adoption.

d. The placement does not require departmental supervision.

e. The guardian is a person, not an agency.

**204.2(2) Residency.** The subsidized guardianship applicant or recipient need not reside in Iowa.

**204.2(3) Unearned income.** Unearned income of the child from sources such as social security, veterans administration, railroad compensation, trust funds, and the family’s insurance shall also be used before subsidy funds are expended. The guardian shall provide to the department worker documentation from any source of the child’s unearned income.

**204.2(4) Other services.** Other services available to the guardian free of charge to meet the needs of the child, such as other federal, state, and local governmental and private assistance programs, shall be explored and used prior to the expenditure of subsidy funds.

**441—204.3(234) Application.** Applications for the subsidized guardianship program may be made at any county office of the department.

**204.3(1) Application forms.** Application for guardianship subsidy shall be made on Form 470-3632, Application for Guardianship Subsidy.

**204.3(2) Eligibility determination.** The determination of whether a child meets eligibility requirements is made by the department. The person shall be notified in writing of the decision of the county office regarding the person’s eligibility for the program and the amount of the subsidy to be made.

**204.3(3) Effective date.** The effective date of the subsidy payment shall be the date the guardianship order is signed if all other conditions of eligibility are met.

**204.3(4) Redetermination.** The department worker shall review the child’s eligibility, the needs of the child, and the child’s unearned income every 12 months. Reviews may be done more often if needed because of the child’s need for a special service, revision of the subsidy amount because of the child’s age, or a request for review by the guardian. The amount of subsidy may be renegotiated at the time of review.

\*Pursuant to 2000 Iowa Acts, Senate File 2435, section 40, implementation of Chapter 204 is delayed until such time as funding is appropriated by the General Assembly.

**441—204.4(234) Negotiation of amount of subsidy.**

**204.4(1) *Subsidy agreement.*** The amount of subsidy shall be negotiated between the department and the guardian, and shall be based upon the needs of the child, and the circumstances of the family. Each time negotiations are completed, the Guardianship Subsidy Agreement, Form 470-3631, shall be completed and signed by the guardian and the department worker.

**204.4(2) *Amount of subsidy.*** The department shall enter into the agreement based upon available funds. A guardianship subsidy shall be no less than \$10 per month. The maximum monthly payment for a child in subsidized guardianship shall be made equal to the foster family care maintenance rate according to the age and special needs of the child as found at 441—subrule 156.6(1) and 441—paragraphs 156.6(4) “a” and “b.”

**204.4(3) *Placement outside of home.*** If a child needs to be placed out of the guardian’s home for treatment and the plan is for the child to return to the family, a partial subsidy amount may be negotiated.

**441—204.5(234) Parental residual rights and responsibilities.** Parental residual rights and responsibilities are not affected by the subsidy. These may be set out or limited in the guardianship order and may include visitation, consent to adoption, support and lines of inheritance.

These payments are considered foster care payments for purposes of child support recovery and as such create a support debt for the parents.

**441—204.6(234) Termination of subsidy.** The subsidy shall terminate when any of the following occur, and a notice shall be sent which states the reason for the termination:

1. The child no longer meets the definition of “child.”
2. The child marries.
3. The guardian is no longer using the maintenance payments to support the child.
4. Upon the death of the child, or the death of the guardian of the child (one in a single-parent family and both in a two-parent family).
5. Upon conclusion of the terms of the agreement.
6. Upon request of the guardian.
7. The guardian is no longer legally responsible for the child.
8. The family fails to participate in the renewal process.
9. The juvenile court closes its guardianship case.
10. The department funds for subsidized guardianship are no longer available.

**441—204.7(234) Reinstatement of subsidy.** Reinstatement of the subsidy shall be made when the subsidy was terminated because of a reason in rule 441—204.6(234), numbered paragraph “3,” “6,” or “8,” and the reason for termination no longer exists.

**441—204.8(234) Appeals.** The guardian may appeal adverse determination pursuant to 441—Chapter 7.

**441—204.9(234) Medical assistance.** Children eligible for subsidy are entitled to medical assistance as defined in 441—Chapter 75. When an Iowa child receives medical assistance from another state, Iowa shall discontinue paying any medical costs the month following the move unless additional time is necessary for a timely notice of decision to be provided to the guardian.

The funding source for medical assistance is based on the following criteria:

1. Children from Iowa residing in Iowa shall be covered by Iowa’s medical assistance.

2. Children from Iowa residing in another state shall receive medical assistance from the state of residence if eligible. Iowa shall provide medical assistance for children not eligible in their state of residence. Medical assistance available in the family's state of residence may vary from Iowa's medical assistance.

3. Children from another state residing in Iowa shall continue to be covered by the other state's medical assistance unless the state has adopted the adoption assistance interstate compact and a contract between Iowa and the other state exists.

These rules are intended to implement Iowa Code section 234.6 and 1999 Iowa Acts, House File 760, section 15, subsection 9.

[Filed emergency 8/12/99 after Notice 6/16/99—published 9/8/99, effective 9/1/99]

#### CHAPTER 205

Reserved

#### CHAPTER 206

##### COMMUNITY SUPERVISED APARTMENT LIVING ARRANGEMENTS SERVICES PROGRAM

Rescinded IAB 3/6/02, effective 5/1/02

#### CHAPTER 207

##### RESIDENTIAL SERVICES FOR ADULTS

Rescinded IAB 3/6/02, effective 5/1/02

#### CHAPTER 208

Reserved

#### CHAPTER 209

##### CHILDREN IN NEED OF ASSISTANCE OR CHILDREN FOUND TO HAVE COMMITTED A DELINQUENT ACT

Rescinded IAB 11/1/89, effective 1/1/90. See 441—Ch 151.